

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Performance Measurements and  
Reporting Requirements  
For Operations Support Systems,  
Interconnection, Operator Services  
And Directory Assistance

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CC Docket No. 98-56  
RM-9101

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FEDERAL COMMUNICATIONS COMMISSION  
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REPLY COMMENTS OF THE COMPETITIVE  
TELECOMMUNICATIONS ASSOCIATION

THE COMPETITIVE  
TELECOMMUNICATIONS ASSOCIATION

Genevieve Morelli  
Executive Vice President  
and General Counsel  
THE COMPETITIVE TELECOMMUNICATIONS  
ASSOCIATION  
1900 M Street, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 296-6650

Robert J. Aamoth  
John J. Heitmann  
KELLY DRYE & WARREN LLP  
1200 19th Street, N.W.  
Fifth Floor  
Washington, D.C. 20036  
(202) 955-9888

Its Attorneys

July 6, 1998

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## SUMMARY

In these reply comments, the Competitive Telecommunications Association (“CompTel”) reaffirms its support for the Commission’s proposed adoption of performance measurements and reporting requirements. Pointing to the ILECs’ uniform lack of compliance with their OSS obligations, many commenters joined CompTel in urging the Commission to adopt its proposals as binding rules and not merely as unenforceable models. These commenters echoed CompTel’s views that (1) the Commission has clear authority to adopt its proposed guidelines as enforceable rules and (2) sound policy reasons compel the adoption of binding rules rather than models. Competitors across the board and even some ILECs extolled the cost and efficiency gains that could be realized through the uniformity that would result from the Commission’s adoption of binding national rules.

With regard to the specific performance measurements and reporting requirements proposed by the Commission, CompTel submits that it would prefer that the Commission adopt LCUG’s proposed measurement standards and reporting requirements. Nevertheless, CompTel joins many competitors in calling on the Commission to require further disaggregation of performance data. CompTel submits that ILEC claims regarding the burdens associated with measurement and reporting requirements are grossly overstated. In expressing its concern over the burdens that its proposals will impose on ILECs, CompTel believes that the Commission overlooks the burden placed on competitors and consumers by not having enforceable rules.

Thus, the following proposals are among those which CompTel supports:

- (1) Performance measurements and reporting must be done on an MSA basis or, if appropriate, on an SMSA or rural area basis.
- (2) ILECs must provide data for each electronic OSS interface offered.
- (3) Ordering and provisioning data must be disaggregated into separate categories for loops provided with and without number portability, trunks,

and unbundled data loops.

- (4) Installation troubles must be reported on a “per circuit” or “per element” basis.
- (5) ILECs should be required to file reports with the FCC and the appropriate State commission.
- (6) Reports should be made on a monthly basis.
- (7) Upon request, ILECs should make available raw data underlying their reports.

CompTel also reaffirms its support for prompt Commission action on technical and performance standards. The Commission should act expeditiously either to facilitate the immediate development of technical standards through industry fora or to initiate a rulemaking proceeding to adopt such standards itself. The Commission also should adopt default benchmarks for measurements where no retail analogue is readily available.

Finally, CompTel joins those commenters who called on the Commission to adopt meaningful remedies and effective enforcement procedures. Since monetary remedies alone will not deter noncompliance, CompTel reaffirms its support for conditioning retention of RBOC interLATA authority (once granted) on an RBOC’s compliance with the requirements of Sections 251, 252 and 271, and the Commission’s rules promulgated thereunder. Because reporting requirements are meaningless unless supported by efficient enforcement procedures, CompTel also reiterates its support for (1) using the Commission’s proposed measurement and reporting requirements as the standard on which the Commission will review Section 271 applications and ILEC mergers, and (2) the establishment of an “accelerated docket” option for complaints alleging violations of Sections 251, 252 and 271-275 of the Act.

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**REPLY COMMENTS OF THE COMPETITIVE  
TELECOMMUNICATIONS ASSOCIATION**

The Competitive Telecommunications Association ("CompTel"), by its attorneys, hereby submits these reply comments in response to comments filed on the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NPRM") released on April 17, 1998 in the above-captioned dockets.<sup>1</sup>

**Introduction**

An overview of the comments filed on the Commission's NPRM leads to two general conclusions: (1) the Commission must take action to ensure incumbent local exchange carrier ("ILEC") compliance with statutory and regulatory operations support systems ("OSS") requirements; and (2) the lack of unanimity among the ILECs demonstrates that claims by a few ILECs that the Commission's proposed action is jurisdictionally improper and excessively burdensome are themselves suspect. Competitors, State commissions and even some ILECs recognize that the Commission's proposed measurement and reporting requirements can advance local competition by creating national standards that will enable carriers to demonstrate and assess compliance with the OSS requirements that are now part of the Communications Act of

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<sup>1</sup> Comments were due on June 1, 1998.  
DC01/HEITJ/57428.1

1934, as amended (“Act”). Indeed, competitors uniformly urged the Commission to adopt its proposed measurement and reporting requirements as binding national rules and not merely as models. As CompTel set forth in its initial comments, adopting models merely will delay local competition and will impose unnecessary costs on competitive local exchange carriers (“CLECs”) and ILECs alike.

In these reply comments, CompTel also focuses on the positions taken by commenters on the specific proposals put forth by the Commission. In this respect, CompTel is reassured by the widespread general support expressed for the measurements proposed by the Commission and by the fact that, when recommending changes to the Commission’s proposals, most parties called for disaggregation and adoption of standards more closely resembling those originally proposed by the Local Competition Users Group (“LCUG”).<sup>2</sup>

Finally, CompTel underscores the need for the Commission to address remedies and enforcement promptly. The comments make clear that without enforcement, standards are meaningless.

#### **I. The Commission Should Adopt Binding National Rules (NPRM ¶¶ 22-26)**

CompTel believes that the Commission can advance local competition most efficiently and effectively by adopting binding national rules that will aid in demonstrating, measuring and enforcing compliance with the Act’s OSS access and provisioning requirements. CompTel was joined by many commenters who presented well reasoned discussions demonstrating that (1) the Commission has clear statutory authority to adopt binding national rules, and (2) sound policy

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<sup>2</sup> LCUG, Service Quality Measurements, Version 6.1 (filed Oct. 8, 1997) (LCUG is comprised of AT&T, LCI, MCI, Sprint and WorldCom).

reasons compel the adoption of binding rules rather than models.<sup>3</sup> Notably, Sprint, a company that is both a large ILEC and a large interexchange carrier (“IXC”) and is becoming a major CLEC, also called on the Commission to adopt binding rules.<sup>4</sup>

With respect to jurisdictional issues raised by the NPRM, many commenters affirmed CompTel’s position that the Commission unquestionably has the authority to issue binding performance measurement and reporting rules.<sup>5</sup> As CompTel set forth in its initial comments, the 1996 Act provides the Commission with jurisdiction to establish regulations to implement, at a minimum, specific portions of Section 251.<sup>6</sup> Contrary to the suggestions of some ILECs,<sup>7</sup> the Eighth Circuit actually *affirmed* the Commission’s authority to adopt rules implementing the unbundling and resale provisions of Section 251 and specifically *upheld* the Commission’s rules implementing the statutory nondiscriminatory access requirement for OSS that is essential to ILEC unbundling of network elements and provisioning of resale services.<sup>8</sup> Moreover, CompTel reaffirms its position that the Commission retains the authority to enforce its OSS, unbundling and resale rules, as intended by Congress.<sup>9</sup>

Many commenters also echoed CompTel’s view that, aside from the Commission having clear legal authority to do so, policy reasons compel the adoption of binding national rules.<sup>10</sup>

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<sup>3</sup> See, e.g., AT&T Comments at 8-17; LCI Comments at 2-9; MCI Comments at 4-6; WorldCom Comments at 3-6.

<sup>4</sup> Sprint Comments at 2-3 (Sprint supports requirements that will facilitate local competition and that will be reasonable for ILECs to implement).

<sup>5</sup> See, e.g., AT&T Comments at 8-13.

<sup>6</sup> CompTel Comments at 10-13.

<sup>7</sup> See, e.g., BellSouth Comments at 2.

<sup>8</sup> See, e.g., AT&T Comments at 8-13; CompTel Comments at 10-13.

<sup>9</sup> CompTel Comments at 12-13.

<sup>10</sup> See, e.g., WorldCom Comments at 4-6.



Recognizing the ILECs' uniform lack of compliance with their OSS obligations, many commenters concluded that binding national rules are the best way to ensure and expedite ILEC compliance with their OSS obligations.<sup>11</sup> Several commenters expressed the view that the failure to adopt binding rules merely will perpetuate the status quo and delay the advent of true local competition.<sup>12</sup> Thus, as LCI and CompTel proposed more than a year ago – and as the Commission and the National Association of Utility Regulatory Commissioners (NARUC) have recognized,<sup>13</sup> something must be done to ensure and accelerate compliance. CompTel and many other commenters believe that the Commission's proposal to adopt nonbinding model rules falls far short of what could and should be done.<sup>14</sup>

Accordingly, CompTel agrees with those commenters who suggested that the model rules approach will impose additional costs on ILECs and competitors alike.<sup>15</sup> Because most ILECs provide OSS on a regional basis, both ILECs and competitors could realize substantial cost savings from uniformity.<sup>16</sup> As GTE explained, “[u]niformity will assist ILECs by allowing them to develop consistent measurement and reporting systems and software for all of their systems throughout the country, while CLECs will benefit by receiving comparable information on different ILECs' performance.”<sup>17</sup> GTE also maintained that, “[i]f each state were to adopt completely unrelated performance measurements and reporting requirements, ILEC system

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<sup>11</sup> See, e.g., LCI Comments at 2-4.

<sup>12</sup> See, e.g., *id.* at 4.

<sup>13</sup> See NPRM ¶¶ 1, 3.

<sup>14</sup> See, e.g., LCI Comments at 2-9.

<sup>15</sup> See, e.g., WorldCom Comments at 4-5.

<sup>16</sup> See WorldCom Comments at 4-5; *see also* MCI Comments at 4-6 (maintaining that results at the State level have been inadequate and the resulting absence of uniformity poses a significant impediment to competition).

<sup>17</sup> GTE Comments at ii.

programming and distribution costs would increase substantially.”<sup>18</sup> Similarly, if a CLEC were forced to compare different measurements and reports from the same ILEC for different states, its costs of processing and utilizing that data would increase dramatically.

CompTel also concurs in WorldCom’s assessment that national rules allow for more flexibility than model rules to be adopted by the states. As WorldCom explained, “[t]he industry’s knowledge regarding the components of OSS, as well as what it means to provide nondiscriminatory access or a reasonable opportunity to compete is constantly evolving.”<sup>19</sup> Necessary changes could be achieved quickly and uniformly only if the Commission’s proposed measurements and reporting requirements are adopted as binding rules at the federal level.<sup>20</sup>

Finally, CompTel notes that the comments demonstrate a consensus that model rules are better than having no rules or guidelines at all.<sup>21</sup> Even some ILECs (GTE and Bell Atlantic) rationally supported the Commission’s proposed model rules approach.<sup>22</sup> However, if the instant rulemaking results only in the adoption of model rules, CompTel joins those commenters who called on the Commission to set forth expedited procedures and a date certain for

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<sup>18</sup> *Id.* at 3.

<sup>19</sup> WorldCom Comments at 6.

<sup>20</sup> *See id.* at 5-6.

<sup>21</sup> *See, e.g., id.* at 6-7.

<sup>22</sup> *See* GTE Comments at 1-3; and Bell Atlantic Comments at 1. By contrast, Ameritech and BellSouth held firmly, if not belligerently, to their well known and shared position that the Commission has no role whatsoever in the establishment of mechanisms designed to ensure compliance with Section 251. *See* Ameritech Comments at 6-14; BellSouth Comments at 2-5. CompTel, however, notes that this argument is based on tortured interpretations of the *Louisiana Pub. Serv. Comm’n v. FCC*, 476 U.S. 355 (1986), and the Eighth Circuit’s *Iowa Utilities Board* decision that cannot withstand scrutiny.

reexamining the effectiveness of the models and converting, as necessary, models into binding rules.<sup>23</sup>

## **II. Specific Recommendations on the Commission's Proposed Performance Measurements and Reporting Requirements (NPRM ¶¶ 27-103)**

Although CompTel would prefer that the Commission adopt LCUG's proposed measurements and reporting requirements, CompTel agrees with those commenters who commended the Commission for attempting to strike a reasonable balance between detecting discrimination and limiting the burdens placed on ILECs.<sup>24</sup> CompTel focuses on the positions taken by commenters on the specific proposals put forth by the Commission below. Significantly, CompTel notes that, commenters frequently coupled general support for the measurements proposed by the Commission with specific recommendations in favor of further disaggregation or adoption of standards more closely aligned with those originally proposed by LCUG.

### **A. General Issues (NPRM ¶¶ 27-42)**

#### **1. Balance Between Benefits and Burdens (NPRM ¶¶ 36-37)**

CompTel respectfully submits that ILEC claims regarding the burdens associated with measurement and reporting requirements are grossly overstated.<sup>25</sup> CompTel agrees with MCI and others expressing the view that the benefits outweigh any minimal burden associated with

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<sup>23</sup> See WorldCom Comments at 24-25; ALTS Comments at 2 (ALTS suggests that the Commission should be ready to proceed upon the Supreme Court's issuance of a decision on the appeal of the *Iowa Utilities Board* decision. The Supreme Court is expected to issue that decision during the first half of next year.).

<sup>24</sup> See, e.g., Washington UTC Comments at 9; WorldCom Comments at 7, 12.

<sup>25</sup> See, e.g., Ameritech Comments at 16-18.

the implementation of measurement and reporting requirements.<sup>26</sup> Significantly, Sprint notes that a decision in favor of models, as opposed to binding rules, could lead to greater costs and burdens on ILECs.<sup>27</sup>

Moreover, CompTel believes that in expressing its concern regarding the burdens placed on ILECs, the Commission overlooks the burden that not having enforceable rules places on competitors – and consumers who are awaiting the advent of true local competition.<sup>28</sup> Many commenters agreed with CompTel's assessment that the ILECs uniformly have failed to comply with their OSS obligations. As WorldCom explained, it has been nearly two years since the Commission imposed these obligations and 18 months since the deadline for ILEC compliance has passed.<sup>29</sup> In light of these facts, it cannot be said that it is unduly burdensome to require ILECs to report data (which is exclusively in their control) so that noncompliance no longer can be masked.<sup>30</sup>

## **2. Geographic Level of Measurements and Reporting (NPRM ¶ 38)**

CompTel believes that performance measurements and reporting must be done on an MSA basis or, if appropriate, on an SMSA or rural area basis.<sup>31</sup> CompTel agrees with those commenters arguing that LATA-wide or state-wide reporting areas may distort pertinent

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<sup>26</sup> See MCI Comments at 6-8; LCI Comments at 8-9.

<sup>27</sup> See Sprint Comments at 3.

<sup>28</sup> See ALTS Comments at 3-4.

<sup>29</sup> See WorldCom Comments at 8.

<sup>30</sup> See *id.* at 9.

<sup>31</sup> See Washington UTC Comments at 8; LCUG Proposal at 5, WorldCom Comments at 11 (market-by-market); Sprint Comments at 7 (Sprint believes that the Commission simply should require each ILEC to report using the same geographic units that they use internally with respect to its own retail business, so long as those units are at least as large as an exchange, but smaller than an entire state or LATA).

performance indicators and, as a result, may mask discrimination.<sup>32</sup>

### **3. Scope of Reporting (NPRM ¶ 39)**

CompTel agrees with those commenters supporting the Commission's proposal to have an ILEC report separately on its performance as provided to: (1) its own retail customers; (2) any of its affiliates that provide local exchange service; (3) competing carriers in the aggregate; and (4) individual competing carriers.<sup>33</sup> All four categories are essential to ensuring that information necessary for proving and detecting compliance with the Act is made available.

### **4. Relevant Electronic Interfaces (NPRM ¶ 40)**

CompTel agrees with those who commented in favor of requiring ILEC measurements for each of the electronic interfaces offered.<sup>34</sup> CompTel agrees with the Commission's conclusion that reported data should be disaggregated by interface type.<sup>35</sup> Such disaggregation will assist competitors and ILECs in pinpointing and correcting any problems that may be limited to particular interfaces.

## **B. Proposed Measurements (NPRM ¶¶ 43-103)**

### **1. Pre-Ordering (NPRM ¶¶ 43-54)**

CompTel supports the Commission's proposal to disaggregate rejected query notices for each pre-ordering sub-function.<sup>36</sup> This, too, will assist carriers in identifying and correcting systems and process deficiencies. CompTel also agrees with those who commented in favor of

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<sup>32</sup> See ALTS Comments at 5-6; LCI Comments at 10; WorldCom Comments at 10.

<sup>33</sup> See ALTS Comments at 6; LCI Comments at 9; Sprint Comments at 7; WorldCom Comments at 11.

<sup>34</sup> See ALTS Comments at 8; WorldCom Comments at 12.

<sup>35</sup> See WorldCom Comments at 12; Washington UTC Comments at 9.

<sup>36</sup> See ALTS Comments at 9.

requiring an ILEC to measure the speed at which it provides rejected query notices to CLECs as well as to itself.<sup>37</sup> ILECs also should measure the number of rejected query notices as a percentage of the total number of pre-ordering queries.<sup>38</sup> Each of these measures will enable comparisons necessary to detect discriminatory conduct – they also will assist in determining whether ILECs need to improve OSS interfaces and processes or whether CLECs need to improve their own procedures for utilizing them.

## **2. Ordering and Provisioning (NPRM ¶¶ 46-79)**

### **a. Disaggregation of Data (NPRM ¶¶ 46-51).**

Although CompTel supports the more disaggregated measurement categories contained in the LCUG proposal, it believes that the Commission's thirteen proposed measurement categories<sup>39</sup> – particularly, the disaggregation of the unbundled loop category between 2-wire and 4-wire loops<sup>40</sup> – will form an appropriate minimum standard for reporting measurement disaggregation.<sup>41</sup> CompTel also concurs with those commenters who called for: (1) separate measurement and reporting requirements for loops provided with and without number portability;<sup>42</sup> (2) the inclusion of trunks as a separate measurement category;<sup>43</sup> and the establishment of an unbundled data loop category.<sup>44</sup> CompTel believes that this degree of disaggregation will ensure that discriminatory conduct with respect to trunks or a particular loop

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<sup>37</sup> See WorldCom Comments at 12; Texas PUC Comments at 3.

<sup>38</sup> See ALTS Comments at 9-10.

<sup>39</sup> LCUG Proposal at 56 (LCUG proposed measurements for fifteen service groupings as well as seven order activities).

<sup>40</sup> *Id.* at 52-53.

<sup>41</sup> See WorldCom Comments at 13.

<sup>42</sup> See ALTS Comments at 10-11.

<sup>43</sup> See *id.* at 10-11; MCI Comments at 10; Ohio PUC Comments at 12; Texas PUC Comments at 3; WorldCom Comments at 14.

<sup>44</sup> See ALTS Comments at 10.

type cannot be hidden.

**b. Order Completion Measurements (NPRM ¶¶ 52-56)**

CompTel supports the requirement of both the Average Completion Interval and the Percentage of Due Dates Missed for orders placed by the ILECs' own retail customers and for new entrants' orders.<sup>45</sup> Both measures are necessary to detect independent types of discriminatory conduct. If, through no fault of their own, competitors take longer to turn up new services or if they consistently miss due dates, competition will be stymied. Moreover, when monitored over time, these measures may prove useful in detecting developing capacity issues.

**c. Average Interval for Held Orders (NPRM ¶¶ 65-67)**

CompTel supports the Commission's proposed Average Interval for Held Orders measurement and agrees with those commenters who supported the Commission's tentative conclusion that the measurement should not be limited to orders that are not completed due to a lack of facilities.<sup>46</sup> Because customers are likely to blame delays on the CLEC, CLECs must have assurances that the average period over which CLEC orders are held is no worse than what the ILEC itself experiences for similar services. CompTel also notes that the degree of disaggregation proposed by the Commission adequately balances ILEC measurement and reporting burdens with the need to make information available so that compliance with the Act's OSS requirements can be gauged. Finally, CompTel reaffirms its support for the Percent of Orders Held More than 15 Days and the Percent of Orders Held More Than 90 Days proposed by

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<sup>45</sup> See *id.* at 11; LCUG Proposal at 23; Texas PUC Comments at 4.

<sup>46</sup> See ALTS Comments at 12-13; Ohio PUC Comments at 13 (suggesting that the reasons for held orders should be reported as well).

LCUG.<sup>47</sup> Each of these measures will facilitate the identification of chronic provisioning problems that could cripple competitive entry.

**d. Installation Trouble Measurements (NPRM ¶¶ 68-70)**

CompTel supports the Commission's proposed requirement that ILECs report installation troubles on a "per circuit" or "per element" basis, as opposed to a "per order basis."<sup>48</sup> As several commenters noted, measuring installation troubles on a per order basis easily could mask discrimination in the provision of certain services or network elements.<sup>49</sup>

With respect to the Commission's proposed Percentage of Troubles in Thirty Days for New Orders measurement, CompTel reiterates its support for the competing LCUG proposal<sup>50</sup> and, in any event, submits that sixty days would be a more appropriate cut-off for measuring trouble reports for new orders. MCI correctly notes that the Commission's proposal will mask problems that go undetected or unreported by customers.<sup>51</sup> If a customer has service difficulties with a new entrant, it might switch back to the incumbent without notifying the CLEC of the service problems.<sup>52</sup>

**3. Repair and Maintenance Measurements (NPRM ¶¶ 80-87)**

CompTel supports the Commission's proposed measurements for repair and maintenance.<sup>53</sup> CompTel believes that the Average Time to Restore measurement should be

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<sup>47</sup> See LCUG Proposal at 31-32.

<sup>48</sup> See ALTS Comments at 13; Ohio PUC Comments at 14; Sprint Comments at 9.

<sup>49</sup> See, e.g., Sprint Comments at 9.

<sup>50</sup> LCUG Proposal at 26.

<sup>51</sup> See MCI Comments at 11.

<sup>52</sup> *Id.*

<sup>53</sup> See ALTS Comments at 14; Ohio PUC Comments at 15; Texas PUC Comments at 7; Washington UTC Comments at 14.



disaggregated into disposition and cause categories, as proposed by LCUG.<sup>54</sup>

CompTel agrees with WorldCom that ILECs should be required to report on the Percentage of Customer Troubles Resolved Within the Estimated Time with respect to interconnection trunks.<sup>55</sup> CompTel also agrees with the Texas PUC that further disaggregation is necessary to detect discriminatory performance. In particular, the measurements should be reported in the following repair and maintenance categories: POTS, UNE, residential and business.<sup>56</sup>

#### **4. Billing Measurements (NPRM ¶¶ 88-90)**

CompTel agrees with those commenters who supported the Commission's proposed measurements for billing.<sup>57</sup> With regard to the Average Time to Deliver Invoices measurement, CompTel believes that, for an ILEC's own retail use, the ILEC should compare the date and time the customer's bills are produced in electronic format to the date and time the billing cycle closes.<sup>58</sup> CompTel supports WorldCom's proposal to disaggregate this measurement so that wholesale bill invoices and UNE bill invoices are measured and reported separately.<sup>59</sup> CompTel also supports the disaggregation of the Average Time to Provide Usage Measurement into three

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<sup>54</sup> See LCUG Proposal at 33 and 57 (LCUG proposed the following disposition and cause categories: (1) out of service no dispatch; (2) out of service with dispatch; (3) hold open for monitoring; (4) customer premise equipment trouble (including inside wire); (5) no trouble found; (6) central office equipment; (7) interoffice facilities; (8) loop/access line; (9) all other troubles; and (10) no access); MCI Comments at 13; Ohio PUC Comments at 15.

<sup>55</sup> See WorldCom Comments at 15.

<sup>56</sup> See Texas PUC Comments at 7.

<sup>57</sup> See ALTS Comments at 14; WorldCom Comments at 15.

<sup>58</sup> See LCUG Proposal at 45; WorldCom Comments at 16.

<sup>59</sup> WorldCom Comments at 16.

categories – local usage, exchange access usage, and alternately billed usage.<sup>60</sup>

#### **5. Trunk Blockage Measurements (NPRM ¶ 96)**

CompTel supports the Commission's proposal to require ILECs to measure trunk blockage on both interconnection trunk groups and common trunk groups.<sup>61</sup> CompTel agrees with WorldCom that (1) ILECs should report any blockage on these trunks that exceeds generally acceptable engineering standards and (2) blockage on interconnection trunks and common trunks should be compared to the blockage experienced in the incumbent's own network.<sup>62</sup> CompTel also agrees with WorldCom that, "[a]lthough interconnection performance reporting should be done in conjunction with the incumbent's monthly reports, the incumbents should also be required to inform their competitors immediately if blockage on the incumbent's side of the network is threatening to exceed engineering standards. The ability to receive calls is too fundamental to local competition to wait a month to get a report on blockage that has already been affecting a customer for weeks."<sup>63</sup>

Additionally, CompTel also supports those commenters who maintained that ILECs should be required to measure and report call completion rates.<sup>64</sup>

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<sup>60</sup> See WorldCom Comments at 15; *but see* Sprint Comments at 10 (Sprint recommends eliminating the third measurement and claims that the incidences involved are immaterial).

<sup>61</sup> See ALTS Comments at 15; Ohio PUC Comments at 16; WorldCom Comments at 17.

<sup>62</sup> WorldCom Comments at 17.

<sup>63</sup> *Id.* at 17, n.22.

<sup>64</sup> *Id.* at 18.

### **III. Reporting Procedures (NPRM ¶¶ 104-123)**

#### **A. Receipt of Reports (NPRM ¶¶ 106-111)**

CompTel does not oppose the Commission's proposal that ILECs should provide reports to CLECs only after receiving a request from the CLEC for such reports, but submits that the Commission make certain that its rules do not require resubmission of the request on a monthly basis.<sup>65</sup> In other words, once reports are requested by a CLEC, the ILEC should provide them continuously until it receives notification from the CLEC that the reports no longer are wanted.

CompTel also agrees with those commenters who submitted that the Commission's rules should require that reports be filed with the Commission and the appropriate State commission.<sup>66</sup>

Finally, CompTel concurs with those commenters who opposed the Commission's tentative conclusion that only carriers that already obtain services and facilities from the ILEC should have the opportunity to receive reports.<sup>67</sup>

#### **B. Frequency of Reports (NPRM ¶ 112)**

CompTel believes that, in order to ensure maximum usefulness of the reports at this early stage of the development of local competition, reports should be required on a monthly basis.<sup>68</sup> An ILEC should provide reports to a requesting CLEC within 30 days, or 60 days if the ILEC has had no previous experience with the CLEC.

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<sup>65</sup> See Sprint Comments at 12.

<sup>66</sup> See WorldCom Comments at 19; *but see* Sprint Comments at 11.

<sup>67</sup> WorldCom Comments at 19-20; *see also* LCI Comments at 9-10.

<sup>68</sup> See LCI/CompTel Petition, at 12-13; Sprint Comments at 12; WorldCom Comments at 20; Washington UTC Comments at 22.

**C. Auditing Requirements (NPRM ¶¶ 113-115)**

CompTel and most commenters agree that competing carriers must be given reasonable opportunity to conduct audits of performance reports.<sup>69</sup> CompTel also reaffirms its support for LCUG's proposed requirement that an ILEC should make available, at a competing carrier's request, the raw data underlying a report at the same time it provides the performance report to a competing carrier.<sup>70</sup>

**IV. Evaluation of Performance Measurements (NPRM ¶¶ 116-123)**

CompTel concurs with those commenters who suggested that the Commission should adopt a uniform and statistically valid method to evaluate parity. In particular, CompTel believes that the "z-test", as proposed by LCUG, is the statistical method best suited to this task. As MCI explains, the z-test is simpler to use than a t-test and also can better address large sample sizes.<sup>71</sup>

**V. Technical and Performance Standards (NPRM ¶¶ 124-129)**

The LCI/CompTel Petition asked for Commission action on technical standards only if industry fora are unable to make progress in establishing OSS standards. More than a year later, competitors are still awaiting the adoption and implementation of national technical standards.<sup>72</sup> In order to prevent further harmful delays, the Commission should act expeditiously either to

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<sup>69</sup> See LCUG Proposal at 6; MCI Comments at 31-32 (MCI provides an example in which the Ohio PUC caught Ameritech skewing its numbers); Texas PUC Comments at 8.

<sup>70</sup> See LCUG Proposal at 5; LCI Comments at 11; MCI Comments at 33; WorldCom Comments at 20-21; *but see* Sprint Comments at 6 (raw data should be made available only in the context of an audit).

<sup>71</sup> See MCI Comments at 34-35; Texas PUC Comments at 8-9; *see also* Sprint Comments at 6 (Sprint calls the LCUG proposal acceptable).

<sup>72</sup> WorldCom Comments at 22.

facilitate the immediate development of technical standards through industry fora or initiate a rulemaking proceeding to adopt such standards itself. The Commission should not permit industry foot-dragging to block the development of national standards that are critical to the development of local competition.

Once industry standards are developed, it is critical that all ILECs comply with such standards as soon as feasible. With respect to OSS interfaces, the Commission should require ILECs to implement the Alliance for Telecommunications Industry Solutions ("ATIS") technical standards within a timeframe set by ATIS or with six months, if no time period is set. CompTel also agrees with WorldCom that the Commission must require ILECs to implement the industry-set technical standards with little or no modifications.<sup>73</sup>

CompTel also reiterates its support for the establishment of objective performance standards and agrees with MCI that they are essential for ensuring that access to OSS is reasonable.<sup>74</sup> At a minimum, default benchmarks should be established where retail analogues are not readily available.<sup>75</sup>

## **VI. Remedies and Enforcement (NPRM ¶ 130)**

Many commenters called on the Commission to address remedies and enforcement issues promptly.<sup>76</sup> CompTel agrees. As CompTel discussed in its initial comments, meaningful remedies must be adopted promptly.<sup>77</sup> These measures should include automatic credits, fines and forfeitures. However, as CompTel has set forth previously, monetary remedies alone will

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<sup>73</sup> See *id.* at 24.

<sup>74</sup> MCI Comments at 16-23; *but see* Sprint Comments at 12 (stating that this traditionally has been the province of the States).

<sup>75</sup> See MCI Comments at 22-23.

<sup>76</sup> See, e.g., LCI Comments at 12; WorldCom Comments at 24.

<sup>77</sup> CompTel Comments at 15-16.

not be enough to deter ILEC discrimination. In its comments, MCI provides an excellent example of why this is the case.<sup>78</sup> According to MCI's experience in Iowa, U S West has shown that monetary penalties merely will be written off as a cost of doing business.<sup>79</sup> Thus, CompTel reaffirms its support for conditioning retention of RBOC interLATA authority (once granted) on an RBOC's compliance with the requirements of Sections 251, 252 and 271, and the Commission's rules promulgated thereunder.

CompTel also is compelled to reiterate its view that enforcement is the most effective and efficient way in which the Commission can spur ILEC compliance with the Act's OSS, interconnection, unbundling and resale obligations.<sup>80</sup> Many commenters – and the Commission – agree. As MCI noted in its comments, “[t]he Commission has recognized the importance of enforcement mechanisms that deter anticompetitive behavior as CLECs attempt to enter the local market and recently concluded that ‘without enforcement mechanisms, reporting requirements are meaningless.’”<sup>81</sup>

Finally CompTel reaffirms its support for

- (1) using the Commission's proposed measurement and reporting requirements as the standard on which the Commission will review Section 271 applications and ILEC mergers; and
- (2) the establishment of an “accelerated docket” option for complaints alleging violations of Sections 251, 252 and 271-275 of the Act.

Both of these measures will provide additional – and much needed – incentives for ILECs to meet the obligations imposed on them by Congress in Section 251 and the other competition sections of the Act.

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<sup>78</sup> See MCI Comments at 23, n.44.

<sup>79</sup> *Id.*

<sup>80</sup> See *id.* at 23-28.

<sup>81</sup> MCI Comments at 23 (quoting Bell Atlantic/NYNEX Merger Order).

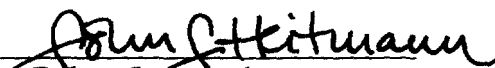
### Conclusion

For the reasons expressed herein and in CompTel's initial Comments – as well as those contained in the LCI/CompTel Petition and in CompTel's comments and replies made thereon.– the Commission should adopt *enforceable* rules and policies that establish minimum national default performance standards, measurements and reporting requirements. Because local competition has waited long enough, CompTel urges the Commission to take the actions recommended as expeditiously as possible.

Respectfully submitted,

**THE COMPETITIVE  
TELECOMMUNICATIONS ASSOCIATION**

Genevieve Morelli  
Executive Vice President  
and General Counsel  
THE COMPETITIVE TELECOMMUNICATIONS  
ASSOCIATION  
1900 M Street, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 296-6650

By:   
~~Robert J. Aamoth~~  
John J. Heitmann  
KELLY DRYE & WARREN LLP  
1200 19th Street, N.W.  
Fifth Floor  
Washington, D.C. 20036  
(202) 955-9888

Its Attorneys

July 6, 1998

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Reply Comments Of The Competitive Telecommunications Association" were served this 6th day of July, 1998, by hand, on the following:

A. Richard Metzger, Jr.  
Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Room 500  
Washington, D.C. 20554

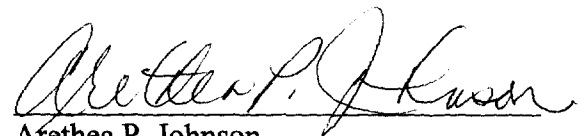
International Transcription Services, Inc.  
(ITS)  
1231 20th Street, N.W.  
Washington, D.C. 20036

Lawrence E. Strickling  
Deputy Bureau Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Room 500  
Washington, D.C. 20554

James D. Schlichting  
Deputy Bureau Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Room 500  
Washington, D.C. 20554

Janice M. Myles  
Federal Communications Commission  
Common Carrier Bureau  
Room 544  
1919 M Street, N.W.  
Washington, D.C. 20554

Ms. Magalie R. Salas  
Commission Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554



Afethea P. Johnson